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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/044,448	01/09/2002	Edwin Kong-Sun Ho	005925.P001	8466

7590 09/14/2005

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EXAMINER	
BORISSOV, IGOR N	

ART UNIT	PAPER NUMBER
3639	

DATE MAILED: 09/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/044,448	HO ET AL.	
	Examiner	Art Unit	
	Igor Borissov	3639	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *16 June 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-33* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-33* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

Amendment received on 6/16/2005 is acknowledged and entered. Claims 34-75 have been canceled. Claims 1, 12, 23 and 27 have been amended. Claims 1-33 are currently pending in the application.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1, 3-5, 7-10, 12, 14-16, 18-21, 23, 25-29 and 31-33 are rejected under 35 U.S.C. 102(e) as being unpatentable over by Mehta et al. (US 2002/0131404 A1) in view of Little et al. (US 2002/0055852) and further in view of Leppanen (US 5,758,286).

Claims 1 and 12. Mehta et al. (Mehta) teaches a computer-implemented method and system for maintaining and distributing wireless applications to mobile devices, said system including: a computer network, a provisioning server, and a deployment server having "push" behavior capability [0110], [0132]; said method comprising: receiving a request (call) for an application from a customer's mobile device; and responding to the call based upon information identified for response [0136]; [0138].

Mehta does not explicitly teach that responding to the request (call) from the customer's mobile device includes initiating *a dialog* between the server and the mobile device. Mehta, also, does not specifically teach using a service dialed number selected to address the call and a response to the call.

Little et al. (Little) teaches a method and system for selecting and presenting information to wireless devices, wherein a dialog is established between the interactive voice response server and the wireless device [0037].

Leppanen teaches a method and system for providing mobile telecommunications services using abbreviated dialing, wherein a user, in order to receive said telecommunications services (make a phone call), dials a prefix number which identifies said user as a subscriber authorized to use said service (C. 3, L. 4-6).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Mehta to include that responding to the request (call) from the customer's mobile device includes initiating a dialog between the server and the mobile device, as disclosed in Little, because it would advantageously allow to incrementally build up a customer's request until sufficient information has been retrieved for processing, as specifically indicated in Little [0037]. And it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Mehta and Little to include using a "service dialed number" (prefix) to obtain telecommunications services, as disclosed in Leppanen, because it would advantageously allow to group telecommunications services provided to a subscriber in billing using said prefix, as specifically stated in Leppanen (C. 1, L. 65-67).

Furthermore, Mehta teaches:

Claims 3 and 14. Identifying the subscriber who sent the request [0136].

Claims 4 and 15. Determining whether the device has the resources and other capabilities specified by the application profile that corresponds to the requested application [0136].

Claims 5 and 16. Determining compatible file formats for the identified subscriber device [0148].

Claims 7 and 18. Based on determined information related to the resources and other capabilities specified by the application profile (first subset), selecting a remote application host to select the requested application (Fig. 5; [0065]; [0136]).

Claims 8 and 19. Based on determined information related to a designated by a subscriber list of content, which can be downloaded (second subset), identifying applications matching said list [0006].

Claims 9 and 20. Based on determined information related to a designated by a subscriber list of content, which can be downloaded (second subset), identifying applications matching said list [0006]. Information as to specific content of said applications, including *one of a product, a location, a person, and a group of people* is non-functional language and given no patentable weight. Non-functional descriptive material cannot render non-obvious an invention that would otherwise have been obvious. *See: In re Gulack 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983) In re Dembiczak 175 F.3d 994, 1000, 50 USPQ2d 1614, 1618 (Fed. Cir. 1999).* The specific example of non-functional descriptive material is provided in MPEP 2106, Section VI: (example 3) a process that differs from the prior art only with respect to non-functional descriptive material that cannot alter how the process steps are to be performed.

Claims 10 and 21. Selecting the information via cell phone interface (Fig. 2, [0063]).

Claim 23. Mehta teaches a computer readable medium containing instructions which, when executed by a computer causing said computer to implement the following method steps: receiving a request (call) for an application from a customer's mobile device; and responding to the call by providing, by a deployment server having "push" behavior capability ([0110], [0132]) an application, chosen based upon information identified for response [0136]; [0138].

Mehta does not explicitly teach that responding to the request (call) from the customer's mobile device includes initiating *a dialog* between the server and the mobile device. Mehta, also, does not specifically teach using a service dialed number selected to address the call and a response to the call.

Little et al. (Little) teaches a method and system for selecting and presenting information to wireless devices, wherein a dialog is established between the interactive voice response server and the wireless device [0037].

Leppanen teaches a method and system for providing mobile telecommunications services using abbreviated dialing, wherein a user, in order to receive said telecommunications services (make a phone call), dials a prefix number which identifies said user as a subscriber authorized to use said service (3, L. 4-6).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Mehta to include that responding to the request (call) from the customer's mobile device includes initiating a dialog between the server and the mobile device, as disclosed in Little, because it would advantageously allow to incrementally build up a customer's request until sufficient information has been retrieved for processing, as specifically indicated in Little [0037]. And it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Mehta and Little to include using a "service dialed number" (prefix) to obtain telecommunications services, as disclosed in Leppanen, because it would advantageously allow to group in billing telecommunications services provided to a subscriber using said prefix, as specifically stated in Leppanen (C. 1, L. 65-67).

Furthermore, Mehta teaches:

Claim 25. Identifying the subscriber who sent the request [0136].

Claim 26. Selecting the information via cell phone interface (Fig. 2, [0063]).

Claim 27. Mehta teaches a computer readable medium containing instructions which when executed by a computer causing said computer to implement the following method steps: receiving over a computer network information related to request (call) for an application from a customer's mobile device; and responding to the call by providing an application to be selected based upon information identified for response [0136]; [0138].

Mehta does not explicitly teach that responding to the request (call) from the customer's mobile device includes initiating *a dialog* between the server and the mobile

device. Mehta, also, does not specifically teach using a service dialed number selected to address the call and a response to the call.

Little et al. (Little) teaches a method and system for selecting and presenting information to wireless devices, wherein a dialog is established between the interactive voice response server and the wireless device [0037].

Leppanen teaches a method and system for providing mobile telecommunications services using abbreviated dialing, wherein a user, in order to receive said telecommunications services (make a phone call), dials a prefix number which identifies said user as a subscriber authorized to use said service (3, L. 4-6).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Mehta to include that responding to the request (call) from the customer's mobile device includes initiating a dialog between the server and the mobile device, as disclosed in Little, because it would advantageously allow to incrementally build up a customer's request until sufficient information has been retrieved for processing, as specifically indicated in Little [0037]. And it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Mehta and Little to include using a "service dialed number" (prefix) to obtain telecommunications services, as disclosed in Leppanen, because it would advantageously allow to group in billing telecommunications services provided to a subscriber using said prefix, as specifically stated in Leppanen (C. 1, L. 65-67).

Furthermore, Mehta teaches:

Claim 28. Determining whether the device has the resources and other capabilities specified by the application profile that corresponds to the requested application [0136].

Claim 29. Determining compatible file formats for the identified subscriber device [0148].

Claim 31. Based on determined information related to the resources and other capabilities specified by the application profile (first subset), selecting a remote application host to select the requested application (Fig. 5; [0065]; [0136]).

Claim 32. Based on determined information related to a designated by a subscriber list of content, which can be downloaded (second subset), identifying applications matching said list [0006].

Claims 33. Based on determined information related to a designated by a subscriber list of content, which can be downloaded (second subset), identifying applications matching said list [0006]. Information as to specific content of said applications, including *one of a product, a location, a person, and a group of people* is non-functional language and given no patentable weight. Non-functional descriptive material cannot render non-obvious an invention that would otherwise have been obvious. *See: In re Gulack 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983) In re Dembiczak 175 F.3d 994, 1000, 50 USPQ2d 1614, 1618 (Fed. Cir. 1999).* The specific example of non-functional descriptive material is provided in MPEP 2106, Section VI: (example 3) a process that differs from the prior art only with respect to non-functional descriptive material that cannot alter how the process steps are to be performed.

Claims 2, 6, 13, 17, 24 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mehta in view of Little further in view of Leppanen and further in view of Larsson (US 6,304,757 B1).

Claims 2, 13 and 24. Mehta in view of Little and further in view of Leppanen teach all the limitations of claims 2, 13 and 24, except specifically teaching *terminating the call prior to an answering of the call.*

Larsson teaches a method and system for providing telecommunications services, including a plurality of mobile users and a telecommunications network, wherein, when a subscriber notifies the telephone exchange that he has transferred to an other area, he/she *terminates the connection before the telephone exchange unit has answered the call,* thereby avoiding cost to the telephone exchange unit (C. 8, L. 53-60).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Mehta in view of Little and further in view of Leppanen to include *terminating the call prior to an answering of the call,* as disclosed in Larsson, because it would advantageously allow subscribers to avoid unnecessary cost, as specifically indicated in Larsson (C. 8, L. 53).

Claims 6, 17 and 30. Mehta in view of Little and further in view of Leppanen teach all the limitations of claims 6, 17 and 30, except specifically teaching that said format includes *two-way SMS*.

Larsson teaches said method and system, wherein the employed communication channel is SMS (C. 9, L. 20-21).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Mehta in view of Little and further in view of Leppanen to include that said mobile devices include SMS capability, as disclosed in Larsson, because it would advantageously allow to communicate without incurring excessive costs.

Claims 11 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mehta in view of Little further in view of Leppanen and further in view of Thornton (US 6,751,454 B2).

Claims 11, 22 and 35. Mehta in view of Little and further in view of Leppanen teach all the limitations of claims 11, 22 and 35, except specifically teaching that said response include *instructing the mobile device to connect to the server.*

Thornton teaches a method and system for sampling audio recording on a cell phone, wherein, after establishing a first data connection to the data server computer, if a consumer wants to select a particular audio of interest while navigating through a menu system, the data server computer instructs the wireless device to terminate the first data connection and establish a voice connection with an audio server computer (C. 2, L. 40-42; C. 7, L. 15-25).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Mehta in view of Little and further in view of Leppanen to include that said response include *instructing the mobile device to connect to the server,* as disclosed in Thornton, because it would advantageously allow subscribers to review or "try" various applications prior to purchasing them, thereby decrease the amount of "returns ".

Response to Arguments

Applicant's arguments filed on 6/16/2005 have been fully considered but they are not persuasive.

In response to the applicant's argument that the prior art fails to teach using a service dialed number to select a response to the call, it is noted that Leppanen was applied to this feature. Specifically, Leppanen teaches providing mobile telecommunications services to a user based on a prefix number entered by the user, said prefix number identifying the user as a subscriber authorized to use requested service (3, L. 4-6). The motivation to combine references would be to advantageously allow to group in billing said telecommunications services provided to subscribers using said prefix, as specifically stated in Leppanen (C. 1, L. 65-67).

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

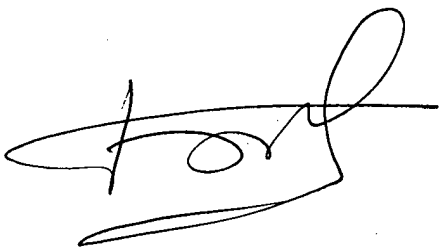
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Igor Borissov whose telephone number is 571-272-6801. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Hayes can be reached on 571-272-6708. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Igor Borissov
Patent Examiner
Art Unit 3639



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